

**BEFORE THE  
VIRGIN ISLANDS PUBLIC SERVICES COMMISSION  
DOCKET NO. 676**

---

**ON PETITION FOR RECONSIDERATION OF VIRGIN  
ISLANDS WATER AND POWER AUTHORITY  
RE: PETITION FOR TEMPORARY BASE RATE RELIEF**

**REPORT OF  
GEORGETOWN CONSULTING GROUP, INC.**

**March 16, 2019**

**GEORGETOWN CONSULTING GROUP, INC.**  
**ON PETITION FOR RECONSIDERATION OF VIRGIN ISLANDS**  
**WATER AND POWER AUTHORITY RE PETITION FOR TEMPORARY**  
**BASE RATE RELIEF**

**VIPSC DOCKET NO. 676**  
**March 16, 2019**

On December 28, 2018, the U. S. Virgin Islands Water and Power Authority (“WAPA or Authority”) submitted a petition and supporting testimony of its Executive Director and Chief Executive Officer, Lawrence J. Kupfer and the testimony and supporting documentation of the Authority’s rate consultant, Henry Thomas, Senior Vice-President and Principal of Public Resources Management Group, Inc. (PRMG), to the U.S. Virgin Islands Public Service Commission (“Commission or PSC”) requesting two surcharges to provide temporary base rate relief. The Petition was not characterized by the Authority as an “emergency” filing but rather as temporary base rate relief.

On January 17, 2019, Georgetown Consulting Group, in its capacity as technical staff to the Commission, submitted a report on the Petition for Surcharges.

On January 22, 2019, the Commission met and considered the petitions. The Commission determined to:

- Deny the Petition for a “Hurricane Recovery Surcharge”; and
- Defer the request for a temporary leased generation surcharge to allow the Commission to receive an amended filing consistent with deferred in-service dates for the Aggreko and Wartsila units which are currently projected to be March 2019. WAPA’s long awaited<sup>1</sup> and anticipated base rate case filing could incorporate this specific request together with all other changes in operations, expense and revenue levels.

As a result, no base rate relief was provided to WAPA.<sup>2</sup>

On February 21, 2019, WAPA filed a Petition for Reconsideration.

---

<sup>1</sup> WAPA has informally announced in conferences with the PSC staff that a base rate filing was imminent.

<sup>2</sup> WAPA has received two increases in its LEAC rates in the past year, resulting in an additional \$26.2M per year in additional estimated revenue (based on forecast sale of 541,000 MWh per year). It is important to remember that these LEAC increases would not have been necessary if WAPA had implemented more efficient generation as it announced earlier. The control of the process to implement efficient generation was entirely under the control of WAPA and no plausible explanation of the reasons for delay have been put forward by WAPA.

## OUTLINE OF ISSUES AND POINTS

The Commission does not act on each petition as a *tabula rasa* (or blank slate) but rather builds on the knowledge and information made available through all of its activities and WAPA's past submissions, petitions, testimony, reports and investigations. In this instance, WAPA's request for surcharges to supplement its base rates are related to and build on the prior and continuing dockets which the Commission takes note of, including but not limited to:

- 289 – Levelized Energy Adjustment Clause (a/k/a LEAC ca. 1989-present)
- 620 - Integrated Resource Planning including Avoided cost and Management audit;
- 612 – Electric Base Rate Investigation (2012-2015);
- 638 – Management Audit
- 651 – Electric Base Rate Investigation (2015 – 2018; incomplete);
- 654 – Emergency Rate Application
- 660 – Emergency Cash Reserve
- 673 – Community Disaster Loan; and
- Post-Hurricane Recovery and Restoration Reports and Testimony.

### **Staff Analysis of WAPA Petition for Reconsideration**

Staff has reviewed the WAPA Petition for Reconsideration and provides the following analysis in this report. The Petition for Reconsideration is very similar to its original Petition for Electric System Temporary Base Rate Relief made on December 27, 2018. In that filing the Authority requested:

- A temporary Hurricane Recovery Surcharge of \$0.033714 per kWh beginning on or after January 1, 2019 and continuing until such time as a permanent base rate case is completed; and
- A temporary Generation Lease Surcharge of \$0.030842 per kWh beginning on or after January 1, 2019 and continuing until such time that a permanent base rate case may be completed.

The request in the Petition for Reconsideration is identical – no new evidence is provided nor is any new supporting testimony provided by WAPA – to WAPA's December 27, 2018 petition. It is not clear, therefore, as to how WAPA can reasonably expect a different outcome.

As an overview of the requests made by WAPA we are struck with the position attempted to be put forward by WAPA that its actions in investing in new plant would “save” substantial sums of money for ratepayers. In reality the planning and execution of implementing new efficient generation was jealously guarded as being under the singular control of WAPA. The execution has been flawed, delayed and not consistent with best practices. The recent management audit results, now several years old, have indicated that annual savings of approximately \$50 million annually could be achieved – a result that WAPA seems to have agreed with but has not timely implemented.

As a result, ratepayers have had to shoulder staggering additional costs of between \$100 million and \$200 million due to the lack of implementation.<sup>3</sup>

In the section below we address the various issues raised by each surcharge.

### **Analysis of the Hurricane Recovery Surcharge**

The Authority's request in this Petition is identical to its request in the original request for temporary base rate relief that consisted of the argument that since Hurricanes Irma and Maria in September 2017, sales of electric power by the Authority have declined approximately 15.6 percent. Based upon the Authority and its rate consultant's projections, gross sales revenues are not expected to reach pre-hurricane levels within the next 12 to 18 months. The lost sales revenues have resulted in a decline in base rate revenues of approximately \$18.3 million per year, which limits the Authority's ability to pay its fixed operating and debt service costs. The Authority argues that it is thus in need of a temporary hurricane recovery surcharge in order to make up its lost revenue shortfall until its Electric System revenues return to their pre-hurricane level or a permanent base rate case is concluded.

The Authority did not provide or refer to any new evidence nor was any additional testimony provided by any of its original witnesses. We must accept the conclusion that WAPA determined no additional evidence or testimony is required for the Commission's reconsideration and our analysis will assume that it relies on the original testimony provided on December 27, 2018. Staff reviewed and responded to the original testimony in detail.<sup>4</sup> The major issues<sup>5</sup> raised in Staff's January 17, 2019 testimony that have not been responded to include:

- In this proceeding WAPA is not seeking the recovery of storm related damages to its generation or delivery system infrastructure or additional expenses. Most if not all post hurricane infrastructure restoration is being funded through FEMA grants and HUD low cost loans.
- WAPA has not provided evidence of the cost elasticity impact on demand of this proposed increase in rates. If we use history as a guide, any increase in rates will likely have a high potential to provide less revenues, not an increase in revenues. For example, WAPA's management has previously testified before this Commission that the rate increases

---

<sup>3</sup> The planning for efficient generation was first initiated after WAPA agreed after much delay to undertake an Integrated Resource Plan (IRP) in 2014. The first plants with efficient generation as identified by the IRP are still not in service. As the Management Audit identified each year's delay cost ratepayers approximately \$50 million.

<sup>4</sup> Staff testimony dated January 17, 2019, Docket 676.

<sup>5</sup> For a complete review of the issues see Staff testimony dated January 17, 2019.

approved in 2013 (Docket 612) did not provide any actual increase in revenue, as sales declined.<sup>6</sup>

- There has been no information provided in the Reconsideration or otherwise as to what actions the management and/or Board of WAPA or the Government of the Virgin Islands has taken or plans to take to reduce operating, maintenance or other expenses in response to the sales decline and loss of revenues as a result of the hurricanes, pre-existing trends, and changes in the market. It is not clear what independent resources WAPA has sought and brought to bear on these issues. What role has the WAPA Board taken? Is it fully aware of the situation? Has it asked the right questions and demanded the necessary information to provide constructive oversight? As we have stated in previous reports, truly independent board members can have a big impact – particularly in crisis situations. In our experience in most jurisdictions regulators would require and give great weight in evaluating rate options to an independent evaluation of all options before WAPA.<sup>7</sup>
- There is no adequate explanation as to the options to remove impediments to the immediate implementation of new generation and why these options have not already been implemented. Financial options and decisions to delay implementing key decisions (such as new or leased units) appear based on the principle that those decisions are for the WAPA Board and management alone to make and the resulting impact must always be funded by WAPA’s customers. It is very hard to understand why the temporary leased Aggreko units on St Croix have not been implemented already.<sup>8</sup> It is hard to understand why additional leased Aggreko units, beyond the 20 MW currently contracted for if they provide additional savings to customers, have not been negotiated for and implemented. It is hard to understand why the first series of Wartsila units have not been placed into commercial service already. It is hard to understand why the Commission is not regularly approached early in the process to determine what it could do constructively to assist in actions that would significantly reduce consumer rates and improve customer service. Given the Management Audit’s early 2016 estimate of a monthly excess cost of more than \$4M to continue running existing equipment, the nearly three-year delay has resulted in ratepayers

---

<sup>6</sup> Beginning with WAPA’s filing in the 2012 at the beginning of Docket 612, the following figures have been reported for WAPA’s electric sales:

Year/Event	Reported Sales (MWhs)	Percentage Change (from 2012)
FY2012	723,918	N/A
FY2013	680,541	6% loss of sales
FY2017 (pre-Storms)	641,263	11.4 % loss of sales
FY2018 (post-Storms)	541,490	25.2% loss of sales
FY2019 (current LEAC filing)	498,276	31.1% loss of sales

<sup>7</sup> WAPA has indicated that the Government of the Virgin Islands has hired the firm of Ernst & Young to provide periodic updates of its liquidity position and to assist in providing some sort of plan in 3 months or so to provide to WAPA’s Board and to perhaps provide some framework for the anticipated base rate case filing. This appears to be a plan to provide a plan without any sense of urgency in 3-months during a period of significant financial uncertainty.

<sup>8</sup> PSC staff has continually discussed the need for efficient generation on St Croix with WAPA personnel. Ironically staff discussed the potential of Aggreko units with WAPA personnel, Mr. Rothgeb, perhaps a decade ago based on observed performance in other jurisdictions. The recommendation was rejected.

already having incurred far more than \$100,000,000 in excess expenses – moneys that could have paid outright for much of the needed new generation with corresponding reduction in overall expenses and substantial improvement in service levels.

- The substantial monies borrowed by WAPA after the hurricanes do not have any requirement for immediate payments. WAPA applied for and received approximately \$93 million of Community Development Loans (“CDLs”) based on revenue losses justified to FEMA for the period September 2017 through September 2018.<sup>9</sup> While there is an amortization and debt service schedule for the repayment of the CDLs<sup>10</sup> the CDLs have no debt service payment requirement in the short term. There will be interest and principal payments in the future.
- WAPA has not indicated if anything has been done to address the reduction in sales and revenues, other than to request an increase in rates. This is a significant omission. The Commission has previously questioned what, if anything, has been done to adjust budgets, including reduction of maintenance expenses<sup>11</sup>, reduction in personnel costs, implementation of Management Audit recommendations, and implementation of new generation (which would permit revenue shifting from fuel expenses [LEAC] to base rates [operations and debt service]). WAPA is in substantial financial distress and has neither created nor presented a “change” story that its consumers and employees understand – a story that creates a sense of urgency and outlines actions being taken. This crisis demands significant action now. An understanding of this crisis needs to drive WAPA and its employees to consider a full range of options that change WAPA’s current financial and operating trajectory – it can’t be business as usual which is the message currently being demonstrated in WAPA’s petitions to the Commission.
- The loss of (projected) revenues is not generally a standard recognized as a basis for increased surcharge revenues. Under traditional ratemaking regulatory practices utilities bear the risk of revenue shortfalls of all kinds (i.e., prolonged storm related outages, forecast errors and so forth). To shift this burden to the consumer would disincentivize WAPA to timely respond to major storm recovery efforts. GCG is not aware of any cases in which this type of surcharge has been adopted by a regulator; WAPA has not cited any such precedent in its filings. In other words, WAPA’s request is to be “made whole” for the projected decline level of revenues since June 2017 is not consistent with existing regulatory practice and may be best treated appropriately in a base rate proceeding.
- While WAPA, the VI government and the Board mobilized significant outside consultant resources to deal with financial resources provided by the Federal Government no such mobilization was provided for the issue of WAPA’s financial viability. As a result, it is only now, 15 months since the hurricanes, that these issues are being examined. Much more is expected of WAPA’s Board in providing independent oversight, policy development and leadership during this crisis.

---

<sup>9</sup> The total amount of the CDLs may have increased to \$94.5M, based on prior representations but without documentation.

<sup>10</sup> We have not received the most recent debt service schedule for the CDLs.

<sup>11</sup> Over the past decade, WAPA’s owned plants have declined precipitously, with retirements of numerous plants; the PSC is often informed of such retirements only well after the fact. All of the leased units include maintenance expense in the lease cost.

All of these issues were presented and heard by the Commission during the Meeting on January 22, 2019 and the Commission rejected the request by WAPA for the Hurricane Recovery Surcharge. In this Petition for Reconsideration WAPA did not address any of the arguments above.

### **Leased Generation Surcharge**

The Leased Generation Surcharge, as in the case of the Hurricane Recovery Surcharge, is virtually identical to the Petition for Base Rate surcharge. The basis for the request for reconsideration has not changed from the Petition for the base rate surcharge:

- WAPA shows in its budget for FY 2019<sup>12</sup> \$13.3 million in anticipated leased expenses for units 26/27 and Aggreko, and for Wartsila training. This compares to what WAPA asserts is \$4.7 million that was used in the last rate case to determine permanent rates then.<sup>13</sup> WAPA claims that the difference of \$8.6 million should be permitted as an emergency increase in this docket to fund existing leases and get the new units on line.
- WAPA's claim is that maintenance and repair expenses of \$3.4 million used to develop rates in the last rate case will be reduced to \$3.2 million in this proceeding (both figures for 6 months) when the majority of the generation is provided by new leased units where the lease expenses include not only the cost of operations, but maintenance and repair cost.<sup>14</sup>
- The Generation Lease Surcharge is based on increased lease expenses of \$8.6 million offset by a de minimis reduction of \$0.2 million in maintenance and repair referred to above for a six-month period through June 2019 for a net revenue increase of \$8.4 million. Based on six-month sales of 270,745 MWh the requested Generation Lease Surcharge is \$0.030842 per kWh.

Issues raised and included in the report of staff in the January Meeting which have not been responded to include the following:

- The leased units and the new Wartsila units are projected to provide most of the generation for both islands and their costs include maintenance provided by the lessor. One should expect reliable operation with little maintenance expense required from the older units which have been due to retire for over a decade. Evidence from an independent reliable third party to indicate that maintenance expense on older units is somehow required should be provided. Specific maintenance expenses in the "austerity" budget<sup>15</sup> that require further investigation include but should not be limited to the consideration of the deferral of the following:

---

<sup>12</sup> The FY 2019 budget is not based on the lower level of sales that WAPA projects. No clear reason has been offered as to why.

<sup>13</sup> It is not clear as to what particular schedules the permanent rates implemented by the Commission in June 2017 were based on. The rates were based on an interim joint recommendation of WAPA and PSC staff that necessarily involved give and take until permanent rates could be determined by a base rate case.

<sup>14</sup> See footnote 13 as to specific levels of expenses included in the determination of rates.

<sup>15</sup> The FY 2019 budget includes a base budget and an "austerity" budget. There is, however, no budget based on the lower projected electric usage based on the impact of the hurricanes.

- Unit 11, which is an oil-fired unit on St. Croix not projected for operation but includes \$600,000 for ST Stator Rewind.
- Unit 19, which is an oil-fired unit with a heat rate of 20,389 includes \$500,000 for a hot gas path inspection.
- Unit 20, which is both oil and LPG-fired with a combined heat rate of 18,510 includes \$700,000 for hot gas path inspection.
- Discussions with WAPA personnel confirm that the currently filed LEAC show both the Aggreko units on STX and the Wartsila units on STT projected to come on line now in March 2019 which is later than projected in the original Petition for base rate relief. This would reduce the lease payments in FY 2019 which is the basis for WAPA's request. In addition, this is the latest in a long string of delays for getting the units on-line and further delays may not be out of the question. Revenues for this portion of the Petition should not be provided prior to when the units come on-line or in regulatory parlance when they are "used and useful" which is a fundamental premise for providing rate relief.

Additional issues that should be considered in the context of the various issues raised by WAPA in its Petition for Base Rate Surcharges and presented in the various dockets listed earlier that are directly relevant to this proceeding:

- WAPA's development of the amount of rate relief required as being computed from the components of the base rate relief awarded in June 2017 is incorrect for several reasons. First, the decision in June 2017 made by the Commission was to make the rates then in effect permanent. Order 59/2017 of June 22, 2017 states that WAPA's request for an addition annual rate increase of \$22 million above the \$15.8 million of interim rates awarded by the Commission on January 12, 2017 was suspended for a period not exceed 8 months and referred to a Hearing Examiner; that request was subsequently withdrawn by WAPA.<sup>16</sup> The amount implemented by the Commission was based on several filings made by WAPA that contained several revisions after analysis and comment by staff and presented as an Interim Agreement to the Commission. The Interim Agreement was comprised of the normal give and take associated with negotiations. The underlying basis of the various components of the Interim Agreement used by both parties do not remain the basis of ratemaking unless directly agreed to by the parties. In this instance WAPA argues that its consultants used various 2016 and 2017 data in its analysis of recommending the Interim Agreement. In its Petition for 2019 base rate surcharges WAPA states that the costs of its lease payments have increased to \$8.6 million and that this should be the basis for a rate increase. As a general matter of ratemaking changes of one element of revenues, expenses or investments are not considered sufficient to make a rate change. "One issue" rate proceedings are not considered favorably without looking at all other elements of revenues, expenses and investments.<sup>17</sup> While arguing for implementing a rate change for the difference in one expense item, lease expenses, WAPA does not analyze or consider changes in a myriad of expenses that were transferred to base

---

<sup>16</sup> WAPA subsequently withdraw that rate request. See letter dated May 1, 2018 (Akeyla O. Christian).

<sup>17</sup> There are certain exceptions such as a major change in tax rate where it may be appropriate to look at the one element without the burden of a full rate case.



- rates and later the expense levels changed significantly lower or eliminated with no corresponding reduction in WAPA revenue levels.
- The lease costs for Unit 25 have long been moved to base rates by the Commission (Order 30-2017). As conditions have changed and WAPA has deemed it reasonable the term and cost of the lease has been altered, negotiated and paid by WAPA. With WAPA's logic of "one issue" ratemaking it appears that WAPA will collect excess lease costs through that transfer of expenses to base rates for each month that the lease is no longer in effect.
  - The costs of maintenance for Unit 23 have also been moved to base rates. The performance of Unit 23 has not been consistent over the years and recently it has been in a state of uncertainty as to whether it would be overhauled. The Commission has been very reluctant to approve overhaul expenses for Unit 23 but WAPA has now committed to make the expenditures. Again, with WAPA's logic of "one issue" ratemaking it appears that WAPA will collect excess maintenance costs through that transfer of expenses to base rates for each month that Unit 23 is not operational. However, to date, ratepayers have realized no benefit at all from the \$7M+ WAPA has expended on Unit 23 from scarce funds, and the LEAC forecast shows minimal future use.
  - Leases for additional Units 26 & 27 were evaluated, analyzed and executed under various scenarios. They were brought in with the dual goals of stabilizing generation capacity and utilizing propane – both meeting fuel diversity goals and reducing fuel costs and emissions. To date, the Units have not been successfully converted to propane.
- WAPA's statements regarding filing a base rate case to take care of issues not addressed in its Petition for base rate surcharges has not been supported by WAPA's actions regarding base rate cases over the last decade or so.
    - Dockets 611 and 612 for base increases in electric and water rates were concluded in December 2013. In 2014 the Commission expressed concern over electric and water base rates and fuel adjustment clauses. At nearly every Commission meeting between January 2015 and December 2015, the Commission urged the filing of an updated and accurate rate case.
    - In December 2015, in compliance with a Commission order, WAPA filed a base rate filing. In February 2016 WAPA met with PSC Staff and agreed to refile its base rate cases, resulting in a new filing with substantially different assumptions and rate relief requests. In September 2016 WAPA filed yet another base rate increase request, with substantially different numbers and rate requests. All delays and timeline impacts of the prior implementation of rates from January 2014 to September 2016 were in the control of WAPA. The Commission approved Interim rates on January 2017, and WAPA promptly sued the Commission. These interim rates were made permanent on June 2017 and WAPA was instructed to have its request for any additional rates heard before a Hearing Examiner. Instead, WAPA withdrew its request. WAPA is presently

out of compliance with the statutory mandate to have its rates reviewed at least once every five years. (30 V.I.C. §20.)<sup>18</sup>

- WAPA has recently quantified and provided to the Commission and Legislature a schedule showing that its overall liabilities have grown to a staggering \$1.2 Billion! It is hard to understand what could possibly explain the delay in filing for base rate relief and more importantly what changes structural or otherwise is required to make WAPA a viable going concern.<sup>19</sup>
- With sales down dramatically, with significant liquidity issues and with no credit, WAPA has not produced any budget which shows the actions of a reasonable and prudent utility
  - Has not produced a budget which matches its revenue forecasts with the lower sales forecast or past experience.
  - Has not demonstrated cost savings measures with the use of leased units that include maintenance for the units.
  - Has not shown the cost savings which must be occurring in its maintenance, due to the retirement of many of its current (and recent past) generating units.
  - Has not shown any maintenance savings from the near complete replacement of its transmission/distribution network post-Storms (at FEMA expense).

## CONSIDERATIONS FOR THE COMMISSION

Given that WAPA's Petition for Reconsideration mirrors the Petition for Base Surcharges originally filed and provides no new evidence or testimony our section on considerations for the Commission does not change from our earlier report. We will therefore not repeat that section here.

## RECOMMENDATIONS

In our prior report we made the following recommendations to the Commission:

1. Reject the request for a Lost Revenue Surcharge (Hurricane Recovery). (*The Commission accepted this recommendation.*)
2. Defer the request for a temporary Leased Generation Surcharge to allow the Commission to receive an amended filing consistent with deferred in-service dates for the Aggreko and Wartsila units which are currently projected to be March 2019. This could be incorporated into a new base rate filing. (*The Commission accepted this recommendation.*)
3. WAPA's precarious financial situation has been ongoing for an extended period and this matter should be treated as having the highest priority. WAPA's filing should clearly lay out what the financial and other obstructions are to getting new high-performance units on-line and its plans to resolving the problems causing these prolonged delays. (*No action was*

---

<sup>18</sup> WAPA has informally indicated that it would withdraw all pending rate cases and file new base rate cases as indicated in this Petition for base surcharges.

<sup>19</sup> The most recent WAPA audit shows the auditor taking no position as to whether WAPA is a viable going concern.

*taken on this recommendation.*) We continue to believe that this should be of the highest priority.

4. Require WAPA to provide the following:
  - a. Electric department base rate filing at the earliest possible date.
  - b. A plan that acceptably addresses the Commission's concern that revenues provided for specific surcharges should be used only for those purposes approved by the Commission.
  - c. Appoint an independent crisis manager and immediate development of a transformation plan designed to significantly enhance WAPA's competitiveness and addresses in detail its current challenges, baseline financial projections, IRP implementation, operational initiatives and performance improvements, rate and regulatory structure, liquidity management, governance, personnel levels, labor relations and pensions. Every aspect of WAPA operations will be subject to this plan. Comparable to the plans and reports required of PREPA in its restructuring, this plan should be updated and presented to the Commission no less frequently than every month.

*(No action was taken on this recommendation.)* We continue to believe that this should be of the highest priority.